

24-36-06

**RESOLUTION TO AWARD LEASE TO OPERATE STILLWATER HYDROELECTRIC PLANT TO NORTHERN POWER & LIGHT, INC. (CONTRACT L012024R)**

**WHEREAS**, pursuant to its enabling statute, the Regulating District has constructed the Stillwater Dam, a 330-foot long 48-foot high poured concrete dam structure and the resulting Stillwater Reservoir, an 8.9 mile long body of water with a surface area of 6,490 acres and a storage capacity of 108,356 acre-feet at an elevation of 1,679.3 feet, both said Dam and Reservoir are owned by the State of New York and operated under the jurisdiction of the Regulating District; said facilities impounding the Beaver River and located in the Town of Webb, Herkimer County, New York (hereinafter referred to as the “STILLWATER DAM”); and

**WHEREAS**, as authorized by Chapter 753 of the Law of 1985, from October 21, 1985, through September 30, 2023, the Regulating District leased a certain 0.6 acre of land (tax parcel 023.-1-6.1) off of Necessary Dam Road and adjacent to the STILLWATER DAM in the Town of Webb, Herkimer County, New York (the “SITE”) to a private entity, Stillwater Associates, LP, which constructed thereon a one-story 1.8 MW hydroelectric facility (the “PLANT”); and

**WHEREAS**, the PLANT operates pursuant to perpetual exemption (P-6743) from licensure issued by the Federal Energy Regulatory Commission (“FERC”) on March 14, 1984; and

**WHEREAS**, on June 14, 1985, as later amended February 28, 1993, Stillwater Associates, LP entered into a transferable Power Purchase Agreement (“PPA”) with National Grid; and

**WHEREAS**, upon expiration of the previous lease, the Regulating District purchased the PLANT permitting Stillwater Associates, LP to continue PLANT operation through June 30, 2024; and

**WHEREAS**, in anticipation of the expiration of the Lease to Stillwater Associates LP, the Regulating District published a request for proposals in the NYS Contract Reporter, and solicited proposals via print and online advertisements seeking entities interested in leasing and operating the PLANT; said solicitation garnering nearly three dozen interested bidders; and

**WHEREAS**, six (6) potential bidders participated in either an in-person site visit or a virtual site visit; and

**WHEREAS**, the Regulating District received two proposals in response to the solicitation; and

**WHEREAS**, the following table summarizes the proposals received.

Lease and Operation of State-owned Hydroelectric Plant at Stillwater Reservoir

Bidder Name	Bid Amount (\$)
Northern Power & Light, Inc.	50,000
Clifton Science and Engineering, LLC.	Non-Responsive

**WHEREAS**, Northern Power & Light proposes a Lease Payment of Fifty Thousand Dollars (\$50,000) annually, subject to a 3% annual escalator, to be paid in monthly installments; and

**WHEREAS**, Clifton Science and Engineering, LLC proposed a range of three alternate lease payment options, contingent upon invoices from National Grid or other purchasers of the energy generated, rather than a rent at a fixed rate to be paid and not subject to change if reservoir conditions differ from those assumed by the proposer for the purpose of their proposal; nor for any other regulatory or operational reason as required in the RFP; and

**WHEREAS**, the Chief Fiscal Officer reviewed the proposals for compliance with the RFP Documents and made a determination of apparent high bidder according to the RFP; and

**WHEREAS**, a team of three evaluators, consisting of the Chief Engineer, General Counsel and the Director of Administrative Services, assessed each proposal against a set of criteria to establish a technical score; reviewing evidence of each proposer's experience reliability and responsibly operating similar hydroelectric facilities; and

**WHEREAS**, all four members of the evaluation team recommend that the Board conditionally award to Northern Power & Light, Inc. a Lease for a period of six (6) years, with an option available for an additional twenty (20) year term commencing July 1, 2024 for a portion of the SITE and the PLANT; and seek Board authorization for the Executive Director to form and execute a Lease with Northern Power & Light, Inc.; and

**WHEREAS**, the evaluation team seeks authority to facilitate a transfer of the Power Purchase Agreement between National Grid and Stillwater Associates, LP to Northern Power & Light, Inc.;

**NOW THEREFORE BE IT RESOLVED THAT**, the Board of the Hudson River – Black River Regulating District conditionally awards the Lease and Operation of the State-owned Hydroelectric Plant at Stillwater Reservoir to Northern Power & Light, Inc. and authorizes the Executive Director to form a Lease for a portion of the SITE and the PLANT for a period of six (6) years, with an option available for an additional twenty (20) year term commencing July 1, 2024 for a Lease Payment of Fifty Thousand Dollars (\$50,000) annually, subject to a 3% annual escalator, to be paid in monthly installments.

**BE IT FURTHER RESOLVED** that the agreement is subject to the review and approval of the NYS Attorney General.

Approved as to form:



Robert P. Leslie  
General Counsel

Motion was made by Mr. Hayes and seconded by Mr. Reagan that the Resolution be approved.

Present and Voting:

<u>MEMBER</u>	<u>AYE</u>	<u>NOE</u>	<u>ABSTAIN</u>
Mr. Finkle	<u>  X  </u>	<u>      </u>	<u>      </u>
Mr. Hayes	<u>  X  </u>	<u>      </u>	<u>      </u>
Mr. DeWitt	<u>  X  </u>	<u>      </u>	<u>      </u>
Mr. Bird	<u>      </u>	<u>      </u>	<u>  X  </u>
Mr. Candido	<u>  X  </u>	<u>      </u>	<u>      </u>
Mr. Reagan	<u>  X  </u>	<u>      </u>	<u>      </u>
Mrs. Allen	<u>  X  </u>	<u>      </u>	<u>      </u>